

THE RIGHT TO HOUSING... WE'RE STILL WAITING

J. DAVID HULCHANSKI

One night last winter Eugene Upper settled down and fell asleep in a Toronto bus shelter. It is unlikely that Mr. Upper drifted off thinking about the economic, political and legal reasons that put him there.

About 10 years earlier, in April 1986, Olaf Solheim was evicted from the room he had called home for many decades. He was one of about 700 people hastily ousted so owners could rent rooms to Vancouver's Expo 86 tourists. Like Mr. Upper, it is unlikely that Mr. Solheim, or the others who were evicted, spent much time reflecting on what security of tenure means and why

Olaf Solheim, long time Downtown Eastside resident, pictured in his apartment shortly before his death in 1986.



politicians refused to protect their rights against market dynamics.

These two events are hardly unique in the world. They are, however, symbolic of the issues that are drawing the world community to Habitat II. It is there that representatives from many nations will reflect upon, debate and then make recommendations relating to the rights of people to a decent standard of living. The aim is to develop a 'global plan of action' on the twin themes of "sustainable human settlements development" and "adequate shelter for all."

Declaration Unenforceable

Being a member of the United Nations (UN) means agreeing to the rights proclaimed in the Universal Declaration of Human Rights. Article 25 of the Declaration states: "Everyone has the right to a standard of living adequate for health and well-being."

This declaration, intentionally called "universal", applies to all people everywhere. It imposes a view of human rights on all nations, their leaders, their populations, and their institutions, including those that govern the marketplace. Neither national sovereignty nor consumer and producer sovereignty in markets can supersede these universal rights. As a declaration, though, this nice document is not enforceable.

Most countries, including Canada but not the United States, have since adopted the treaties designed to implement the Universal



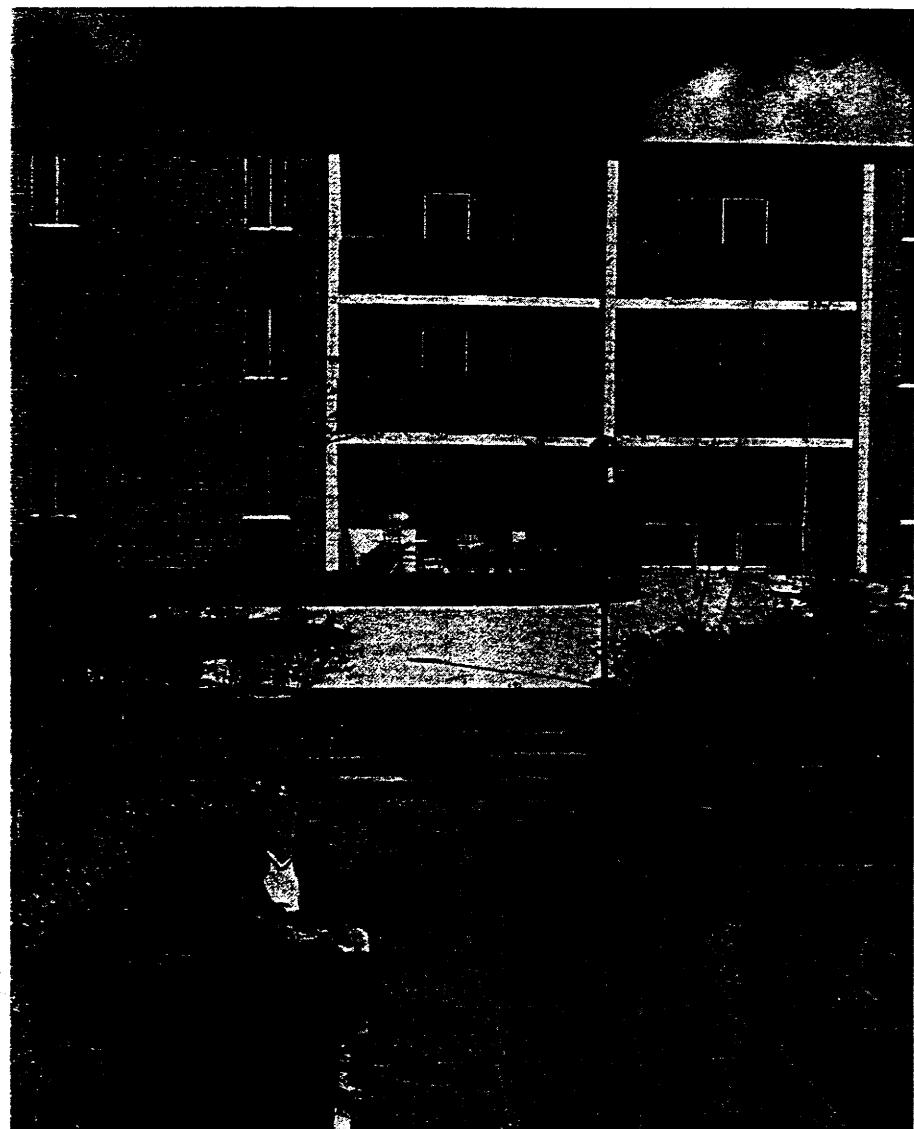
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Declaration, one of which is the 1966 Covenant on Economic, Social and Cultural Rights. In the area of human settlements a key provision of this treaty is Article 11 whereby nations agree to "recognize the right of everyone to an adequate standard of living ... including adequate food, clothing, and housing, and to the continuous improvement of living conditions."

In Canada, the Liberal government in the 1970s explicitly recognized these rights. "Good housing at reasonable cost is a social right of every citizen," declared the minister responsible for housing in 1973. He described that year's amendment of the National Housing Act, which created the non-profit and co-op housing supply programs, as an "expression of the government's policy, part of a broad plan, to try to make this right and this objective a reality."

Canada Shocked UN

Brian Mulroney's government, which began dismantling the social housing programs in the mid-1980s, could at best bring itself to declare that Canadians "ought" to have adequate housing. Recognizing a right means recognizing a corresponding obligation. Housing costs money. A great deal of



Village Square apartments, Winnipeg, Manitoba.

money. There is no cheap remedy.

In 1993, the UN Human Rights Compliance Committee criticized Canada for not protecting the security of tenure of all tenants, for failing to monitor homelessness, for not addressing "widespread discrimination in housing against people with children, people on social assistance, people with low incomes," and for failing to ensure that social assistance rates are at adequate levels. The committee was surprised to learn that Canada spends about two per cent of its budget on housing programs, perhaps the lowest level of any major western nation. The committee was also shocked by evidence that the inability to secure adequate housing is a factor forcing some families to relinquish care of their children to children's aid societies.

Markets, politics and rights all have

their own rules of decision. They sometimes operate in concert, sometimes independently. Canada's housing system consists of a thorough mixture of markets, politics and rights. Politicians, lawyers and academics can live comfortable lives disputing the operational meaning of economic, social and cultural rights. This kind of dispute is what Habitat II is largely about. And it is here that Canada is playing a refreshingly positive role.

Canada's Refreshing Stance

In the round of preliminary meetings at which official government delegations review drafts of what will eventually become the global action plan adopted at the Habitat II conference,



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Canada surprised most participants by taking a strong position in support of the right to adequate housing. This stance, enunciated in a six page memo written by the legal division of the Department of Foreign Affairs, examined whether a right to housing exists in international law and what Canada's legal obligations were with respect to this right. Their conclusion is unequivocal: the right "exists in international law" and Canada has "legally binding obligations."

The memo stated that nations are expected to take steps to "the maximum of their available resources" towards the progressive realization of this right. "It can be argued," the memo points out, "that this obliges States not to take steps that are regressive in nature." The memo further quotes directly from the Convention on the Rights of the Child: "States ... shall take appropriate measures to assist parents and others responsible for the child to implement this right [to an adequate standard of living] and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

Armed with this understanding, Canada forcefully defended a firm position on the right to adequate housing at the February 1996 preparatory meeting despite strong opposition from the United States, Japan, Brazil and a few other countries. Canada teamed up with delegates from the European Union to work hard for clear recognition of the right to adequate housing in the Habitat agenda. The matter remains unresolved with the United States trying to develop a compromise position on an issue where there is really no room for compromise.

No Money, No Housing

The final sentence of the Department of Foreign Affairs memo arrives at a harsh truth, something Eugene Upper and Olaf Solheim no doubt knew from experience: "the right to housing is a largely empty shell awaiting the commitment of governments." Eugene Upper was one of four homeless people who died on Toronto's streets this past winter. Canadians like him have no place in the political system nor in the housing

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market. They have no political clout and generate no market demand for housing. In Canada, for many, no money means no housing.

Olaf Solheim faced eviction during a period when social housing was being built so community workers were able to find him a new place to live. However, at 88 years of age, he never came to grips with the eviction. Mr. Solheim couldn't understand what happened to him. He thought he did something wrong and was being punished. About 40 days after his eviction, with bags still unpacked, his meals-on-wheels deliveries uneaten, Olaf Solheim died in his nice new apartment.

Unlike Eugene Upper, Olaf Solheim was housed. Like Eugene Upper, however, he had no place that was home. The human right to housing of both these men was violated, leading to their deaths.

It is not too difficult to define what the right to adequate housing means. Ask any homeowner. In Canada the bundle of rights associated with housing access, occupancy, and maintenance can be purchased. About two-thirds of Canada's 11 million households have purchased their bundle of housing rights.



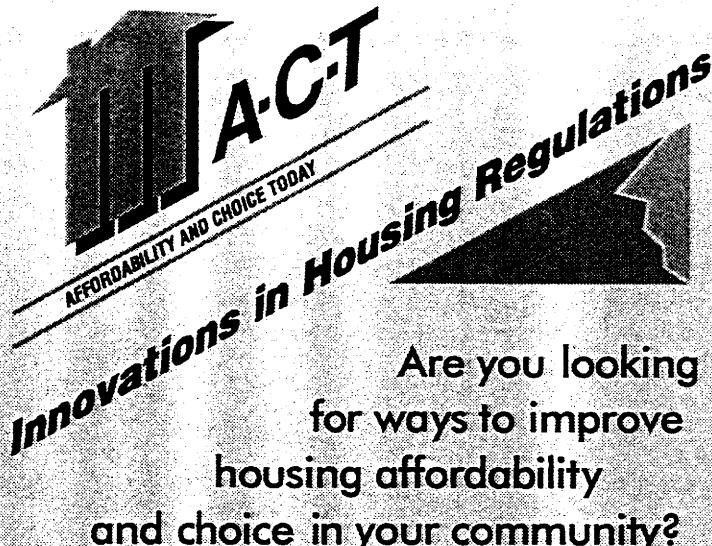
Inclusive Housing System Possible

Canada has an incomplete and an exclusive housing system. For those who cannot afford to buy their bundle of housing rights, there is a very small non-market sector, sheltering about 600,000 households. The market cannot deliver adequate housing, or in some cases, any housing, to people who do not have the money to generate market demand.

No serious technical or practical problems prevent us from completing Canada's housing system thereby fulfilling Canada's legal as well as moral obligations to its citizens. To develop an inclusive housing system, a system which does not exclude large numbers of people, Canada must put housing and related services on the public agenda as a political priority.

We are in a political era in which markets – the rules of market allocation and market access – are assigned a privileged status. The right to adequate housing should not be "a largely empty shell" waiting for political commitment. The right for all Canadians to access and use adequate and appropriate housing is currently secondary to the right to profit from housing. As long as this continues, Canada will have many more Eugene Uppers and Olaf Solheims. Let's hope that our federal government's contribution to Habitat II goes beyond nice legal and moral positions at the global level. Indeed, it is our job as citizens to see that our government not only thinks globally, but will also act locally. ■

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